

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

<p>ERIC CERVINI, WENDY DAVIS, DAVID GINS, and TIMOTHY HOLLOWAY,</p> <p>Plaintiffs,</p> <p>v.</p> <p>ELIAZAR CISNEROS, HANNAH CEH, JOEYLYNN MESAROS, ROBERT MESAROS, DOLORES PARK, and JOHN and JANE DOES,</p> <p>Defendants.</p>	<p>Civil Action No. 1:21-cv-00565-RP</p> <p>Hon. Robert Pitman</p>
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REPLY IN SUPPORT OF PLAINTIFFS’ MOTION TO COMPEL DEFENDANT ELIAZAR CISNEROS TO PRODUCE HIS MOBILE PHONE AND DOCUMENTS RELATED TO POTENTIAL SPOILIATION OF EVIDENCE AND NOTICE OF DEFENDANT’S FAILURE TO OPPOSE SAME

On September 13, 2022, Plaintiffs Eric Cervini, Wendy Davis, David Gins, and Timothy Holloway (together, “Plaintiffs”) filed their Motion to Compel Defendant Eliazar Cisneros to Produce His Mobile Phone and Documents Related to Potential Spoliation of Evidence (the “Motion”). Dkt. 109. The Motion respectfully requested the Court to order Defendant Eliazar Cisneros (“Cisneros”) to produce his mobile phone and any documents related to the potential spoliation of evidence relevant to this case. Cisneros’s response to Plaintiffs’ discovery motion was due “not later than 7 days after the filing of the motion.” *See* W.D. Tex. Local R. CV-7(d)(2).

Defendant Cisneros has not filed an opposition to the Motion, nor has he requested additional time to do so. As Cisneros has failed to respond to the Motion “within the time period prescribed by th[e] rule, the court may grant the motion as unopposed.” *Id.*; *see also Bowman v. Casitas Investors, LLC*, 2016 WL 11214425, at *1 (W.D. Tex. Dec. 15, 2016) (granting plaintiff’s

motion to compel discovery responses as unopposed where defendant did not respond within the amount of time prescribed by the local rules). Plaintiffs therefore respectfully request that the Court consider Plaintiffs' Motion unopposed and order the entry of Plaintiffs' proposed order granting Plaintiffs' Motion. *See* Dkt. 109-14.

DATED: September 22, 2022

Respectfully submitted,

/s/ John Paredes

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CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2022, a true and correct copy of the foregoing has been served on all counsel of record and Defendant Hannah Ceh through the Electronic Case File System of the Western District of Texas and by email, in compliance with the Federal Rules of Civil Procedure and as agreed by the parties.

/s/ John Paredes

John Paredes